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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 JONATHAN AGUILAR, et al.

18 Defendants.

) No.: CR 18-0119 RS

) STIPULATION AND ORDER CONTINUING
) MOTION AND STATUS HEARING AND
) ADJUSTING BRIEFING SCHEDULE

19
20 IT IS HEREBY STIPULATED that,

21 For the reasons set forth below, the parties request: (1) a continuance of the briefing schedule for
22 Round 2 motions; (2) a continuance of the current hearing date for Round 2 motions and the next status
23 conference, from July 28, 2020 to September 29, 2020; and (3) an exclusion of time under the Speedy
24 Trial Act from July 28, 2020 (the date though which Speedy Trial Act exclusions have currently been
25 ordered) through September 29, 2020.

26 On March 9, 2020, and April 17, 2020, various defendants filed motions for discovery related to
27 the Round 1 motions schedule. (Dkt. 251-253, 264-267). On May 22, 2020, the government filed
28 responses to those motions. (Dkt. 280, 281). Various defendants have since filed replies and joinders to
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RS]

1 those replies. (Dkt. 285-288). These motions are fully briefed and were previously set for hearing
2 before the Honorable Joseph C. Spero on June 22, 2020. (Dkt. 276). However, pursuant to General
3 Orders 72-3, 73, and subsequent direction from the Court, in-person court appearances are currently
4 limited to ten or fewer individuals in the courtroom. Here, as many as eight defendants wish to be
5 personally present for pretrial motions hearings. Accordingly, the parties submitted a stipulation and
6 proposed order to Judge Spero moving the hearing date for Round 1 motions to July 28, 2020. (Dkt.
7 293). On June 8, 2020, Judge Spero granted the request. (Dkt. 294).

8 The parties now request that this Court continue the Round 2 motions schedule so that briefing
9 falls due after the date of the Round 1 motions hearing. The parties are currently scheduled to brief
10 Round 2 motions in June and July, with a motion hearing and status date before this Court on July 28,
11 2020. The parties now respectfully request to continue the briefing and hearing schedule to August and
12 September, to be heard on September 29, 2020. The parties also seek a corresponding Speedy Trial Act
13 exclusion through September 29, 2020. The grounds for the requested continuance and exclusion are as
14 follows.

15 The parties continue to meet and confer informally by telephone on various discovery issues, in
16 an effort to explore resolutions without calling on the Court's intervention. For instance, pursuant to a
17 request in late 2019 by defense counsel, the government has been gathering and producing on a rolling
18 basis various law enforcement reports and materials for alleged 19th Street and 16th Street gang
19 members. Moreover, after informal consultation with various defense counsel, the government has
20 started gathering materials related to follow-up requests made by the defense, based in part on reports
21 previously produced in discovery and in part on anticipated expert witness testimony.

22 On June 1, 2020, the government provided preliminary notice of expert witnesses, as well as a
23 response for notice of *Bruton* materials. The government is preparing a supplemental production of
24 more than 600 pages of materials that will bear on anticipated expert witness testimony (including
25 Firearms and Toolmarks and fingerprint identification). Further, the government is in the process of
26 gathering and preparing for discovery production similar materials pertaining to autopsies of deceased
27 victims and medical treatment of surviving victims, in connection with the various incidents charged in
28 the pending indictment.

1 The government has also assembled a follow-up request to SFPD to obtain the complete case
2 files for a number of incidents implicated by the charges in the indictment as well as other alleged
3 crimes that may become relevant in the presentation of enterprise evidence (i.e., a broader group of
4 incidents than those directly charged in the indictment). Such discovery will be implicated by Rule
5 404(b) and “enterprise proof” notice, but the government is trying to assemble and produce such
6 materials as early as possible in this case. Unfortunately, the pandemic and shelter-in-place protocols
7 have hindered the government from obtaining the case files, many of which will apparently require
8 access to closed file storage. In short, the parties are making a good-faith effort to keep the case moving
9 forward, while trying to resolve as many pretrial issues informally as they can, in order to narrow and
10 refine the list of issues that they feel must be heard and determined by the Court.

11 Based on the above, the parties believe it is appropriate to continue the second round briefing
12 schedule to the following dates:

13 Defense Filing Date: August 25, 2020

14 Government Oppositions: September 15, 2020

15 Defense Replies: September 22, 2020

16 Motion Hearing Date: September 29, 2020, at 10:00 a.m.

17 The parties also agree that, in light of the above, the ends of justice served by granting a
18 continuance through and including September 29, 2020, outweigh the best interest of the public and the
19 defendants in a speedy trial, within the meaning of 18 U.S.C. § 3161(h)(7)(A). The parties also agree
20 that this case is so complex, due to the number of defendants and the nature of the prosecution, that it is
21 unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself within the
22 otherwise-applicable time limits, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii).

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The parties further agree that failure to grant the continuance would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

Dated: June 9, 2020

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Dated: June 9, 2020

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Dated: June 9, 2020

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Dated: June 9, 2020

/s/
ETHAN A. BALOGH
Counsel for Weston Venegas

ORDER

THE COURT ORDERS THAT the previous briefing schedule for the second round of motions is continued as follows:

Defense Filing Date: August 25, 2020

Government Oppositions: September 15, 2020

Defense Replies: September 22, 2020

Motion Hearing Date: September 29, 2020, at 10:00 a.m.

THE COURT ORDERS THAT a status hearing is also set for September 29, 2020, at 10:00 a.m.

THE COURT FINDS THAT the ends of justice served by granting a continuance from July 28, 2020, through and including September 29, 2020, outweigh the best interest of the public and the defendants in a speedy trial, within the meaning of 18 U.S.C. § 3161(h)(7)(A).

THE COURT FURTHER FINDS THAT this case is so complex, due to the number of defendants and the nature of the prosecution, that it is unreasonable to expect adequate preparation for pretrial proceedings and for the trial itself within the otherwise-applicable time limits, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii).

THE COURT FURTHER FINDS THAT, to allow time for the parties to address ongoing discovery issues which, in turn, will affect pretrial motions, failure to grant the continuance would unreasonably deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

Accordingly, THE COURT ORDERS THAT, the period from July 28, 2020 through and including September 29, 2020 (the date of the next hearing in this case) is excluded from the otherwise applicable Speedy Trial Act computation, pursuant to 18 U.S.C. § 3161(h)(7)(A), (B)(ii) & (B)(iv).

IT IS SO ORDERED.

DATED: June 9, 2020


HON. RICHARD SEEBOR
UNITED STATES DISTRICT JUDGE